IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 3084 of 2007(P)

PETITIONER:

---

1. SRI.P.NAVEEN,S/O.RATHEENDRAN,
   AGED 30 YEARS,"VANDANA"PATTATHUVILA,
   KADAPPAKKADA.

2. SMT.K.M.RADHA,W/O.RATHEENDRAN,
   "VANDANA"PATTATHUVILA,
   KADAPPAKKADA.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

---

1. KERALA FINANCIAL CORPORATION
   (INCORPORATED UNDER THE STATE FINANCIAL
   CORPORATION ACT NO.LXII OF 1951),BRANCH OFFICE:
   A.G.C.COMPLEX,BEACH ROAD,.KOLLAM-691 001
   REPRESENTED BY ITS MANAGING DIRECTOR.

2. KERALA FINANCIAL CORPORATION
   (INCORPORATED UNDER THE STATE FINANCIAL
   CORPORATIONS ACT NO.LXIII OF 1951)
   BRANCH OFFICE A.G.C.COMPLEX
   BEACH ROAD,KOLLAM-691 001.
   REPRESENTED BY ITS CHIEF MANAGER.

BY ADV. SRI.A.A.ABUL HASSAN, SC, KFC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 3084 OF 2007-P

JUDGMENT

The 1st petitioner is a contractor, who availed a loan of Rs.15 lakhs from the 1st respondent Kerala Financial Corporation. The 2nd petitioner is his mother, whose property is offered as collateral security, to secure the loan. The 1st petitioner moved for extending the benefit of one-time settlement scheme to him and he also paid Rs.2 lakhs, as per Ext.P1 receipt dated 19.12.2005. Later, he paid Rs.50,000/-, as per Ext.P3 receipt dated 6.11.2006. The petitioners submit, the 1st petitioner's claim for OTS facility was not considered by the respondents. Now, the property given as security by the 2nd petitioner is notified for sale on 7.2.2007, by Ext.P4 public notice. So, this Writ Petition is filed, challenging Ext.P4 and also praying for a direction to the respondents to extend to the 1st petitioner the benefit of one-time settlement scheme.

2. The respondents have filed a counter affidavit, in which it is submitted that the 1st petitioner's claim for the benefit of one-time settlement scheme was not considered pursuant to the payment of the amount under Ext.P1, for the reason that the amount paid by him as per Ext.P1 did not

come to 10% of the amount outstanding as on that date. Later, by the time he paid the deficit amount also, as per Ext.P3 receipt, the OTS scheme then in force was withdrawn and a new scheme was notified in 2006-07. The loan availed by the petitioner did not came under the categories of loans to which the OTS facility could be extended, as per the new scheme. The said scheme also expired on 31.12.2006. Therefore, the prayer of the petitioners for extending the benefit of one-time settlement scheme cannot be allowed, it is submitted.

3. It is common case that the 1st petitioner has paid Rs.3 lakhs during this week. In view of the bona fides demonstrated by the 1st petitioner by making the payments, I feel that he should be given a chance to settle the amount due from him under the loan account, in instalments. Accordingly, if the 1st petitioner moves the 1st respondent by filing a representation along with a copy of this judgment within three weeks from today, the competent authority of the 1st respondent will consider whether any relief could be granted in the matter of penal interest etc and whether he could be given instalment facility to clear the loan account. This the competent authority shall decide within one month from the date of receipt of the representation. If the representation is filed as directed above, further proceedings to recover the amount by sale of the security furnished, shall be

kept in abeyance, till a final decision is taken by the competent authority. In other words, no sale shall be held as notified in Ext.P4, before the decision is taken as directed above.

The Writ Petition is disposed of as above.

5th February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/